IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

COMPANY APPLICATION NO.551 OF 2007
IN
COMPANY PETITION NO.1168 OF 2001

Mahavir Packaging ..Petitioner.
Vs.
The Official Liquidator of
M/s. Shalimar Tubes & Industries Ltd.
(in liqn.) and anr. ..Respondents.
And
M/s. Pragati Enterprises ..Applicant.

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Ms. Molina Thakur for the Applicant.
Mr. S. Ramakantha, Dy. Official Liquidator present.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**
16th June, 2007.

P.C. :

Counsel appearing for the Applicant states that the Company Application has been served on the Municipal Corporation of Greater Mumbai and an affidavit of service has been filed.

The Applicant is an auction purchaser in whose favour the sale was confirmed on 15th July, 2004 by the Learned Company Judge, Mr. Justice J.N. Patel. While confirming the sale, the following

observations were made in paragraph 3 of the order of the Court :

> "It is made clear that as per the clause 13 of the terms and conditions, the Purchaser was also liable to pay the dues of the Company as specified therein will not be applicable as the property is being sold without any such restrictions or encumbrances and M/s. Pragati Enterprises will be liable to pay only statutory charges for getting the property conveyed/ transferred in their favour. As the liability to pay the dues specified in term no. 13 is that of the Company, it will be discharged from out of the funds received by the Official Liquidator by disposal of the property."

In view of the aforesaid observations, there is substance in the grievance of the Applicant that water taxes upto the date of confirmation of the sale cannot be the liability of the Applicant. The Applicant would be liable to pay all the dues and taxes after the date of confirmation of the sale on 15th July, 2004. The Municipal Corporation would be at liberty to lodge its claim for the period prior to the date of the confirmation of the sale with the Official Liquidator who shall adjudicate upon the same in accordance with law. The Company Application is accordingly disposed of.